

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

Moises Osvaldo HERNANDEZ-MARTINEZ

Case No. 24-30303

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 12, 2023 in the county of Oakland in the
Eastern District of Michigan, the defendant(s) violated:

*Code Section**Offense Description*

Title 8, United States Code, Section 1326(a), (b)(1) Unlawful Reentry Following Removal from the United States

This criminal complaint is based on these facts:

On or about September 12, 2023, in the Eastern District of Michigan, Southern Division, Moises HERNANDEZ-MARTINEZ, an alien who had previously been convicted of a felony offense and subsequently was denied admission, excluded, deported, or removed from the United States on or about August 26, 2022 at or near Brownsville, Texas, was thereafter found in the United States without the express consent of the Attorney General of the United States or the Secretary of the Department of Homeland Security, to re-apply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), (b)(1).

☒ Continued on the attached sheet.


Complainant's signature

Robert Golembiewski, Deportation Officer
Printed name and title

Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: July 30, 2024

City and state: Detroit, Michigan


Judge's signature

Hon. Anthony P. Patti, United States Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT AND ARREST WARRANT

I, Robert Golembiewski, hereby declare the following under penalty of perjury:

1. I am a Deportation Officer employed with Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), of the United States Department of Homeland Security (DHS). I have been employed in this capacity since March 2018. I am assigned to the Criminal Alien Program (CAP) in the ICE ERO Detroit Field Office.
2. I submit this affidavit in support of a criminal complaint and arrest warrant for Moises Osvaldo HERNANDEZ-MARTINEZ, an alien who has previously been convicted of a felony offense and subsequently removed from the United States on or about August 26, 2022 at Brownsville, Texas, and was thereafter found in the United States on or about September 12, 2023, without the express consent of the Attorney General of the United States or the Secretary of the U.S. Department of Homeland Security to re-apply for admission, all in violation of Title 8, United States Code, §§ 1326(a), (b)(1).
3. The facts set forth in this affidavit are based upon my personal knowledge, training and experience, information provided to me by other law enforcement officers to include ICE ERO Deportation Officers, and records checks of law enforcement databases. I have also reviewed records from the official immigration file and system automated data relating to HERNANDEZ-MARTINEZ.
4. The information set forth in this affidavit is for the limited purpose of establishing probable cause and does not necessarily include all the information known to law enforcement related to this investigation.

PROBABLE CAUSE

5. HERNANDEZ-MARTINEZ is a thirty-three-year-old male, native and citizen of Mexico who last entered the United States at or near an unknown place, on or about an unknown date without being inspected and admitted or paroled by an immigration officer.
6. On or about April 4, 2007, HERNANDEZ-MARTINEZ was arrested by United States Border Patrol (USBP) Agents near Hidalgo, Texas and was

granted a Voluntary Return to Mexico. He was returned to Mexico on or about the same day.

7. On or about July 21, 2010, HERNANDEZ-MARTINEZ was arrested by the Lincoln Park, Michigan Police Department and charged with Driving Without a Valid License. On July 23, 2010, HERNANDEZ-MARTINEZ was convicted of the offense in the 25th District Court in Lincoln Park, Michigan and sentenced to three days in jail.
8. On or about July 27, 2010, ICE-ERO Detroit arrested HERNANDEZ-MARTINEZ and served him with a I-862, Notice to Appear. On August 3, 2010, an immigration judge in Detroit, Michigan granted HERNANDEZ-MARTINEZ a voluntary departure to Mexico. On August 11, 2010, HERNANDEZ-MARTINEZ departed the United States to Mexico from the Detroit Metro Airport.
9. On or about November 10, 2013, HERNANDEZ-MARTINEZ was arrested by the Dearborn, Michigan Police Department and charged with Operating While Intoxicated. On January 29, 2014, HERNANDEZ-MARTINEZ was convicted of this offense in the 19th District Court in Dearborn, Michigan and sentenced to 120 months' probation, five days' work program in lieu of jail, and a \$1,525 fine.
10. On or about January 16, 2014, HERNANDEZ-MARTINEZ was arrested by the Dearborn, Michigan Police Department for Operating – No License / Multiple Licenses. On January 29, 2014, HERNANDEZ-MARTINEZ was convicted of this offense in the 19th District Court in Dearborn, Michigan and sentenced to six months' probation and a \$525.00 fine.
11. On or about December 24, 2014, HERNANDEZ-MARTINEZ was arrested by the Melvindale, Michigan Police Department and charged with Failure to Yield Right-of-Way. On February 17, 2015, HERNANDEZ-MARTINEZ was convicted of Improper Parking in the 24th District Court in Allen Park, Michigan and sentenced to pay a \$255.00 fine.
12. On or about February 18, 2016, HERNANDEZ-MARTINEZ was arrested by the Dearborn, Michigan Police Department and charged with Driving While License Suspended. On May 5, 2016, HERNANDEZ-MARTINEZ was convicted of Failed to Display a Valid License in the 19th District Court in

Dearborn, Michigan and was sentenced to pay a \$250.00 fine.

13. On or about December 8, 2017, HERNANDEZ-MARTINEZ was arrested by USBP Agents in Marysville, Michigan and served with a Form I-862, Notice to Appear.
14. On or about April 16, 2018, HERNANDEZ-MARTINEZ was arrested by the Detroit, Michigan Police Department and charged with Allowing Unlicensed Driver to Drive. On May 9, 2018, HERNANDEZ-MARTINEZ was convicted of the offense in the 36th District Court in Detroit, Michigan and sentenced to pay a \$214.00 fine.
15. On October 24, 2018, an immigration judge in Detroit, Michigan ordered HERNANDEZ-MARTINEZ removed from the United States to Mexico. On or about November 27, 2018, HERNANDEZ-MARTINEZ was removed from the United States to Mexico through the Detroit Metro Airport.
16. On or about December 19, 2018, USBP Agents arrested HERNANDEZ-MARTINEZ near Granjeno, Texas and served him with a Form I-871, Notice of Intent/Decision to Reinstate Prior Order of Removal.
17. On December 20, 2018, HERNANDEZ-MARTINEZ was convicted of Improper Entry, in violation of Title 8, United States Code, Section 1325, in the United States District Court for the Southern District of Texas, McAllen Division and sentenced to 10 days confinement, with credit for time served, and a \$10 special assessment.
18. On or about January 18, 2019, HERNANDEZ-MARTINEZ was removed from the United States to Mexico through Brownsville, Texas.
19. On or about February 10, 2019, USBP Agents arrested HERNANDEZ-MARTINEZ near Hebbronville, Texas and served him with a Form I-871, Notice of Intent/Decision to Reinstate Prior Order of Removal.
20. On February 12, 2019, HERNANDEZ-MARTINEZ was convicted of Improper Entry, in violation of Title 8, United States Code, Section 1325(a)(1), in the United States District Court for the Southern District of Texas, Laredo Division and sentenced to 60 days confinement and a \$10 special assessment.

21. On or about April 12, 2019, HERNANDEZ-MARTINEZ was removed from the United States to Mexico through Laredo, Texas.
22. On or about April 19, 2019, USBP Agents arrested HERNANDEZ-MARTINEZ near Laredo, Texas and served him with a Form I-871, Notice of Intent/Decision to Reinstate Prior Order of Removal.
23. On April 22, 2019, HERNANDEZ-MARTINEZ was convicted of Improper Entry, in violation of Title 8, United States Code, Section 1325, in the United States District Court for the Southern Division of Texas, Laredo Division and sentenced to 90 days confinement and a \$10 special assessment.
24. On July 19, 2019, HERNANDEZ-MARTINEZ was removed from the United States to Mexico through Laredo, Texas.
25. On or about August 10, 2019, USBP Agents arrested HERNANDEZ-MARTINEZ near Robles Junction, Arizona and served him with a Form I-871, Notice of Intent/Decision to Reinstate Prior Order of Removal. On or about August 20, 2019, HERNANDEZ-MARTINEZ was removed from the United States to Mexico through Nogales, Arizona.
26. On or about May 23, 2021, Customs and Border Protection (CBP) arrested HERNANDEZ-MARTINEZ near Detroit, Michigan and served him with a Form I-871, Notice of Intent/Decision to Reinstate Prior Order of Removal. CBP Agents reported that HERNANDEZ-MARTINEZ was driving a vehicle that was reported stolen. Additionally, HERNANDEZ-MARTINEZ began to kick and damage equipment while detained in the CBP holding cell. CBP's request for detention was denied due to current enforcement priorities, and HERNANDEZ-MARTINEZ was released under an Order of Supervision pending removal from the United States.
27. On or about September 16, 2021, HERNANDEZ-MARTINEZ was arrested by the Dearborn, Michigan Police Department for Driving While License Suspended. HERNANDEZ-MARTINEZ refused to comply with booking procedures at the Dearborn Jail and physically removed a large section of paint from the jail cell wall. As a result of his actions, HERNANDEZ-MARTINEZ was charged with Failure to Obey Police Officer and Malicious Destruction of Building – Less than \$200. ICE-ERO Deportation Officers

from the Detroit Field Office encountered HERNANDEZ-MARTINEZ while he was booked on these charges.

28. On September 28, 2021, HERNANDEZ-MARTINEZ was named in a criminal complaint filed in the United States District Court for the Eastern District of Michigan charging him with Unlawful Re-entry Following Removal, in violation of Title 8, United States Code, Section 1326(a).
29. On October 12, 2021, HERNANDEZ-MARTINEZ was convicted of Malicious Destruction of Building – Less than \$200 and Failure to Obey Police Officer and sentenced to 22 days in jail and \$125.00 in fines for each offense, to run concurrently.
30. On December 16, 2021, HERNANDEZ-MARTINEZ was convicted of Unlawful Re-entry Following Removal, in violation of Title 8, United States Code, Section 1326(a), a felony offense. HERNANDEZ-MARTINEZ was sentenced to 10 months confinement and a \$100 special assessment.
31. On or about August 26, 2022, HERNANDEZ-MARTINEZ was removed from the United States to Mexico through Brownsville, Texas.
32. On or about September 12, 2023, the Southfield, Michigan Police Department arrested HERNANDEZ-MARTINEZ for Assault with Intent to do Great Bodily Harm Less than Murder or by Strangulation in violation of Michigan Compiled Law (MCL) Section 750.84. ICE ERO Deportation Officers from the Detroit Field Office encountered HERNANDEZ-MARTINEZ while he was booked at the Southfield Police Department and lodged an immigration detainer.
33. On January 16, 2024, HERNANDEZ-MARTINEZ was convicted of Assault with Intent to do Great Bodily Harm Less than Murder or by Strangulation in the 6th Judicial Circuit Court in Pontiac, Michigan and was sentenced to 365 days in jail with credit for 125 days served.
34. On July 15, 2024, ICE-ERO Detroit transported HERNANDEZ-MARTINEZ to the Detroit Field Office for processing. HERNANDEZ-MARTINEZ's fingerprints and photograph were captured and entered in the Automated

Biometric Identification System (IDENT) and the Integrated Automated Fingerprint Identification System (IAFIS). The results revealed that HERNANDEZ-MARTINEZ is a native and citizen of Mexico who was previously removed from the United States.

35. A review of immigration records for HERNANDEZ-MARTINEZ and queries in the U.S. Department of Homeland Security databases revealed that no records exist of HERNANDEZ-MARTINEZ obtaining permission or consent from the Attorney General of the United States or the Secretary of the Department of Homeland Security to re-apply for admission to the United States following his last removal to Mexico on August 26, 2022.
36. ICE ERO Detroit served HERNANDEZ-MARTINEZ with a Form I-871, Notice of Intent/Decision to Reinstate Prior Order of Removal.
37. The aforementioned arrest and subsequent detention of HERNANDEZ-MARTINEZ was an administrative non-criminal action made pursuant to the authority found in sections 1357, 1225, 1226, and/or 1231 of Title 8, United States Code to arrest and detain any alien entering or attempting to enter the United States, or any alien present in the United States who is reasonably believed to be in violation of any law or regulation regulating the admission, expulsion, or removal of aliens.

CONCLUSION

38. Based on the above information, I respectfully submit that there is probable cause to conclude that, on or about September 12, 2023, within the Eastern District of Michigan, Moises Osvaldo HERNANDEZ-MARTINEZ, is an alien who, after having been convicted of a felony offense, was removed from the United States on or about August 26, 2022 at Brownsville, Texas, and thereafter was found in the United States without having obtained the express consent or permission from the Attorney General of the United States or from the Secretary of the United States Department of Homeland Security to re-apply for admission to the United States, in violation of Title 8, United States Code, §§ 1326(a), (b)(1).



Robert Golembiewski, Deportation Officer
Enforcement and Removal Operations
Immigration and Customs Enforcement
U.S. Department of Homeland Security

Subscribed and sworn to before me in my
presence and/or by reliable electronic means.



Honorable Anthony P. Patti
United States Magistrate Judge
Dated: July 30, 2024